



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,010	02/16/2001	James McCoy	A0647-991100	4071
26379	7590	10/08/2009	EXAMINER	
DLA PIPER LLP (US) 2000 UNIVERSITY AVENUE EAST PALO ALTO, CA 94303-2248				ELISCA, PIERRE E
ART UNIT		PAPER NUMBER		
		3621		
			NOTIFICATION DATE	
			DELIVERY MODE	
			10/08/2009	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PatentDocketingUS-PaloAlto@dlapiper.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/785,010

Filing Date: February 16, 2001

Appellant(s): MCCOY ET AL.

DAVID ALBERTI
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 1st, 2007 appealing from the Office action mailed January 9th, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,888,929 Saylor et al 5-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject ,matter which applicant regards as the invention. The limitation “having characterized network resources including...” is vague and indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 24-38 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Saylor et al (U.S. Pat. No. 6,888,929).

As per claims 22 and 27, Saylor discloses a distributed system for publishing and retrieving content in a network, comprising:

A plurality of computer systems connected together in a peer-to-peer fashion and having characterized network resources, wherein the network resources can be contributed to the network by one or more contributing computer systems in return for a predetermined amount of credits, wherein the credits are accumulated by the contributing computer systems contributing network resources to the network, and wherein the contributing computer systems can exchange the credits with other

contributing computer systems for performing peer-to-peer interactions across the network using the network resources (figs 1 and 2, 14B and 15, col 4, lines 50-55, col 5, lines 57-67, col 6, lines 8-22, col 6, lines 60-col 7, line 10, col 7, lines 33-36, col 9, lines 23-28, col 11, lines 58-65, col 34, lines 17-37, col 35, line19-col 36, line 9), and one or more agent applications distributed across the network and associated with the computer systems for allowing the computer systems to publish content to and retrieve content from the network by initiating the peer-to-peer interactions across the network between the agent applications (col 5, lines 57-67, col 6, line 60-col 7, line 10, col 9, lines 23-28, col 14, lines 25-41, col 20, lines 10-21).

Saylor discloses the claimed invention, as discussed above, except for the step of including any of disk space, bandwidth, and CPU cycles for performing peer-to-peer interactions across the network. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Saylor to provide the step of including any of disk space, bandwidth, and CPU cycles for performing peer-to-peer interactions across the network. Saylor discloses the concept of using the World Wide Web via personal digital assistants (col 1, lines 50-55), Vpage creation module that provides user interface... over the Internet (col 4, lines 50-55), and, "User 14 may utilize any type and combination of equipment that enables input .., including telephones, wireless phones, personal digital assistants and other devices, .. communications network 16 may comprise a LAN, WAN, telephone network, a wireless phone network, a digital network, a cable network, a satellite network, a PCS network, the Internet, or other networks or combinations of networks that enable communications

between users .." col 14, lines 10-25. Since the applicant has not disclosed that including any of disk space, bandwidth, and CPU cycles for performing peer-to-peer interactions across the network solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Saylor will perform the invention as claimed by the applicant with any means, method, or product to including any of disk space, bandwidth, and CPU cycles for performing peer-to-peer interactions across the network.

Moreover, increasing disk space is desirable because it allows for storing of increased data. A person of ordinary skill in the art knows that any software process that produces data will require increasing disk space as time progresses.

As per claim 24, Saylor further discloses wherein each interaction across the network involves a transaction cost (col 5, lines 57-67, col 6, line 60- col 7, line 10, col 7, lines 33-36, col 9, lines 23-28, col 11, lines 58-65, col 34, lines 17-37, col 35, line 19- col 36, line 9).

As per claim 25, Saylor further discloses a credit server for maintaining a database of previously used credits and for authorizing a valid credit transaction between interacting agent applications with the network (col 11, lines 58-65, col 14, lines 30-42).

As per claims 26 and 30-32, Saylor further discloses wherein the agent applications comprise one or more client agent applications for enabling the computing systems access and interact with the agent applications in the network (fig 1), one or more broker agent applications for performing brokering transactions between the agent applications in the network (fig 1, VNAP, col 5, lines 57-67, col 7, lines 5-10), one or more tracker agent applications for providing a listing of available resources within the network (Fig 1, VNAP DB, col 12, lines 19-45, col 14, lines 21-33), one or more reputation agent applications for tracking the reputations of the computer systems in the network (col 11, lines 5-13, col 14, lines 34-41), and one or more payment agent applications for validating credit transactions within the network (col 15, line 58- col 16, line 9, col 16, lines 30-56).

As per claims 28-29 and 33-37, Saylor further discloses wherein the one or more tracker agent applications include one or more metatracker agent applications for maintaining the network location of the one or more active broker agent applications and a listing of the associated resources that those active broker agent applications broker within the network (figs 2-3, col 3, lines 55-61, col 11, lines 62-67, col 14, lines 25-30 and 48-55), one or more content tracker agent applications for storing dinodes to locate data blocks constituting a publishing data file on the network (col 5, lines 20-25, col 10, lines 50-60, col 14, lines 25-30, col 14, lines 48-60), and one or more publication tracker agent applications for recording storage locations on particular computing

systems where the data blocks are stored (col 5, lines 20-25, col 10, lines 50-60, col 14, lines 48-60).

As per claim 38, Saylor further discloses wherein the system uses a protocol for transmitting messages between the agents, the protocol including a transport layer for moving secure data between the agents, an encryption and authentication layer for encrypting and decrypting the data, a conversation layer for associating initiating messages with their responding messages counterparts, and a transaction layer for enabling the interactions between the agents in the network (col 8, lines 18-58, col 10, lines 10-18, col 11, lines 24-47, col 17, lines 15-39, col 20, lines 34-58, col 29, line 60- col 30, line 5).

(10) Response to Argument

Claim chart

Broadest claim 22

Claimed Limitation	Prior art Saylor (U.S. Patent No 6,888,929 B1)
A distributed system for publishing and retrieving content in a network	Figs 1 and 2, show a system 10 comprises one or more VNAPs 12 connectable to a plurality of users 14 over a communications network 16. Each VNAP 12 may comprise a plurality of VNAP databases 18. Additionally, VNAP 12 may connect over a communications network 20 to one or more VPage server systems 22 and a VCode registration system 24. Through VCode system 10, users 14 connect to the VNAP 12 to receive content corresponding to

	one or more selected VCodes.
a plurality of computer systems connected together in a peer-to-peer fashion and having characterized network resources including any of disk space, bandwidth, and CPU cycles for performing peer-to-peer interactions across the network	Figs 1 and 2, show a system 10 comprises one or more VNAPs 12 connectable to a plurality of users 14 over a communications network 16. Each VNAP 12 may comprise a plurality of VNAP databases 18. Additionally, VNAP 12 may connect over a communications network 20 to one or more VPage server systems 22 and a VCode registration system 24. Through VCode system 10, users 14 connect to the VNAP 12 to receive content corresponding to one or more selected VCodes.
wherein the network resources can be contributed to the network by one or more contributing computer systems in return for a predetermined amount of credits, wherein the credits are accumulated by the contributing computer systems contributing network resources to the network,	See figs 14A, and 14B server 22 may also comprise a content provider web interface 65 that enables content providers to be able to input VPage content into the system. Specifically, a web base interface may be provided to enable content providers to be able to specify various information about a VPage that they are providing to the network. any number of billing and/or fee arrangements may be used to generate and distribute revenues amongst the various VCode participants within the system. For example, a flat fee may be paid to each of the VPages visited, a pro rata fee based on the period of time a user participates in the system may be provided, etc. Each VPage may then allocate the fees it receives to the various VPages referenced therein according to a predetermined schedule and each VPage may then accordingly allocate fees to each VPage it has participating within its menu system based on a predetermined schedule. As such, content providers are given an incentive to participate because they receive fees for visitation to their VPage. Further, various entities may host VCode displays. Such entities may receive a portion of fees. The

	subject about which content is posted may also receive fees based on access to content.
--	---

Applicant argue that the prior art fail to teach

1. Contributing network resources to a network.

Examiner respectfully disagrees with Applicant characteristic of the prior art.

Saylor et al teach among other thing providing pages of voice content when users input a voice code corresponding to that content. Since Saylor's system is a network with user and providers, the content provided by the provider is provided to the network.

2. Earning credits by contributing network resources to a network.

Examiner respectfully disagrees with Applicant characteristic of the prior art.

Saylor et al teach among other thing system and method for generating revenue from providing pages of voice content when users input a voice code corresponding to that content.

3. A distributed system for publishing and retrieving content via peer-to-peer interactions across a network.

Examiner respectfully disagrees with Applicant characteristic of the prior art.

Saylor et al teach among other thing A fee is collected based on the information retrieved and may be distributed between participants with the voice network access provider system.

4. The record contains no basis for rejecting the claim element as indefinite.

Examiner respectfully disagrees with Applicant. Claim 22 is indefinite because it fail to define the limitation of “ having characterized network resources including...” as indicate in the Examiner final office action. This limitation is vague and indefinite.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Pierre Eddy Elisca/
Primary Examiner

Conferees:

Vincent Millin
Appeals Conference Specialist

/A. J. F./
Andrew J. Fischer
Supervisory Patent Examiner, Art Unit 3621